

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

NICHOLAS LACRUZE,)	
)	
Plaintiff,)	
)	
v.)	No. 1:20-cv-02148-JPH-DML
)	
D. ZATECKY, et al.)	
)	
Defendants.)	

ORDER DENYING MOTION TO RECONSIDER

The plaintiff has filed a motion to reconsider collection of the filing fee in this action. Dkt. [10]. The issuance of a collection order after payment of the initial partial filing fee is mandated by statute. *See* 28 U.S.C. § 1915(b)(2). In addition, a collection order will not withhold all deposits made to the plaintiff's account. The relevant portion of the statute provides as follows:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C.A. § 1915(b)(2).

If the plaintiff's account balance does not exceed \$10.00, then no funds will be forwarded to the Court. This allows inmates to have funds available for personal needs such as hygiene products. The Seventh Circuit has explained:

In passing the Prison Litigation Reform Act and eliminating the possibility that a prisoner might be able to litigate for 'free,' Congress meant to create an incentive against bringing frivolous lawsuits. *See* 141 CONG. REC. S7524–25141 CONG. REC. S7524–25 (daily ed. May 25, 1995) (statement of Sen. Dole). Although the financial burden of paying the filing fee in installments may not seem great, it takes a substantial bite out of a prisoner's account, and this is just what Congress had in mind. *See id.* at S7525; *Skinner v. Switzer*, 562 U.S. 521, 535–36, 131 S.Ct. 1289, 179 L.Ed.2d 233 (2011).

Butler v. Deal, 794 F. App'x 542, 544 (7th Cir. 2020).

Because the collection order must be issued under these circumstances, the plaintiff's motion to reconsider, dkt. [10], is **denied**.

SO ORDERED.

Date: 1/28/2021

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

NICHOLAS LACRUZE
239236
WESTVILLE - CF
WESTVILLE CORRECTIONAL FACILITY
Inmate Mail/Parcels
5501 South 1100 West
WESTVILLE, IN 46391